

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM E. KALT,

Plaintiff,

Case No. 1:11-cv-856

v.

HON. JANET T. NEFF

RONALD MARTIN, et al.,

Defendants.

/

OPINION AND ORDER

This matter was before the Court after the Honorable Jeffrey Hughes, presiding over a Chapter 13 bankruptcy proceeding in which William E. Kalt was the debtor, issued a Report and Recommendation (R & R) referring the adversary proceeding to this Court under *Stern v. Marshall*, ___ U.S. ___, 131 S. Ct. 2594 (2011) (Dkt 1). The Court adopted this Report and Recommendation on December 29, 2011 (Dkt. 3), and referred the case to the Magistrate Judge. A scheduling conference was set for February 28, 2012, and notice of the hearing was mailed to Plaintiff on January 24, 2012. The Chapter 13 bankruptcy was voluntarily dismissed by William E. Kalt on February 13, 2012. Following Plaintiff's failure to appear at the scheduling conference, the Magistrate Judge issued a Report and Recommendation, recommending that the adversary proceeding be dismissed with prejudice and with sanctions.

The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Defendants have also filed a brief in response to Plaintiff's objections. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have

been made. The Court finds the objections are properly denied.

Plaintiff states that he “did in-fact [sic] plan on being at [the February 28, 2012] Hearing” (Pl. Obj., Dkt 9 at 1). The Magistrate Judge noted that Plaintiff not only failed to appear at the scheduling conference and but also failed to contact the Court (R & R, Dkt 7 at 1). The Magistrate Judge recommended, therefore, that the case be dismissed for failure to prosecute under FED. R. CIV. P. 41(b) and that sanctions in the form of attorney fees be imposed under FED. R. CIV. P. 16(f)(1)(A) (*id.*). Plaintiff asserts that he did not attend the hearing because of death threats he received and because of the advice of an unlicensed attorney (Pl. Obj., Dkt 9 at 3-4). Other than his proffered justifications for his absence, Plaintiff has offered no argument questioning the Magistrate Judge’s reasoning or conclusions. His objection is therefore denied.

For the foregoing reasons, therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 9) are DENIED and the Report and Recommendation (Dkt 7) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that this matter is DISMISSED WITH PREJUDICE for failure to prosecute under FED. R. CIV. P. 41(b).

IT IS FURTHER ORDERED that Plaintiff pay one thousand, two hundred, thirty-seven dollars and seventy cents (\$1,237.70)¹ in attorney fees to Defendants no later than sixty (60) days from entry of judgment.

DATED: April 4, 2012

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge

¹Aff., Dkt 8 at 2.